

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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May 24, 2023

VIA ELECTRONIC TRANSMISSION

The Honorable Christopher Wray
Director
Federal Bureau of Investigation

Director Wray:

On May 3, 2023, the Committee sent a letter to the Federal Bureau of Investigation (FBI) regarding legally protected and highly credible unclassified whistleblower disclosures.¹ As previously stated, the whistleblower disclosures indicated that the FBI and Department of Justice (DOJ) are in possession of an FD-1023 form describing an alleged criminal scheme involving then-Vice President Biden and a foreign national relating to the exchange of money for policy decisions.² That same day, the Committee also issued a subpoena requiring the production of:

[a]ll FD-1023 forms, including within any open, closed, or restricted access case files, created or modified in June 2020, containing the term “Biden,” including all accompanying attachments and documents to those FD-1023 forms.³

The subpoena return date was May 10, 2023.⁴ On May 15, 2023, Committee counsel attended an in-person meeting at FBI Headquarters. During that meeting, FBI staff failed to produce the FD-1023 form or offer any reasonable accommodation that would allow the Committee to review the document. Instead, FBI requested a second briefing. I expressed disappointment with the substance of that meeting in a May 19, 2023, letter to you.⁵

On May 16, 2023, Senator Grassley and I, through our staff, requested a phone call with you to discuss the FD-1023 form. Despite repeated requests, the FBI has failed to schedule a phone call. Senator Grassley and I remain open to speaking with you about the FD-1023 form.

¹ Letter and Subpoena to FBI Director Christopher Wray (May 3, 2023); <https://oversight.house.gov/wp-content/uploads/2023/05/Comer-Subpoena-cover-letter-and-Wray-Subpoena-050322.pdf>.

² Letter to AG Garland and FBI Director Christopher Wray (May 3, 2023); <https://oversight.house.gov/wp-content/uploads/2023/05/Grassley-Comer-letter.pdf>.

³ *Supra fn.* 1 at Schedule to Subpoena.

⁴ *Id.* at Subpoena.

⁵ Letter to FBI Director Christopher Wray (May 19, 2023); https://oversight.house.gov/wp-content/uploads/2023/05/Letter-to-Wray-re-Meetings-5_19_23.pdf.

On May 22, 2023, FBI staff and Committee counsel met for a second time, where FBI staff provided general information regarding its confidential human source (CHS) program. Similar to the May 15 meeting, FBI staff was not authorized to even acknowledge the existence of the FD-1023 form. There was only one substantive comment regarding the subpoena. Despite the Committee's subpoena being narrowly tailored to June 2020, FBI staff indicated that the search terms were broad because there were many responsive documents containing the term "Biden" in its CHS database for that month. While that new information was alarming, Committee counsel offered to limit the subpoena to be even more precise. FBI staff responded that such limitation was unnecessary because they knew which document was responsive to the subpoena, yet simultaneously would not acknowledge that document's existence. The FBI's gamesmanship in holding a meeting about general CHS confidentiality issues—instead of addressing the specific FD-1023 form the Committee subpoenaed—is unacceptable.

The Committee is not seeking the identity of the CHS who provided the information to the FBI. Furthermore, there are reasonable accommodations that would alleviate the FBI's concerns about exposing CHS information, including appropriate redactions. Instead of working with the Committee, the FBI has refused to even acknowledge whether the FD-1023 form exists. And the agency has made no attempts to engage in a reasonable accommodation process.

The FBI's refusal to produce this single document is obstructionist. Nevertheless, to narrow the breadth of the subpoena, we are providing additional terms based on unclassified and legally protected whistleblower disclosures that may be referenced in the FD-1023 form: "June 30, 2020" and "five million."⁶ These terms relate to the date on the FD-1023 form and its reference to the amount of money the foreign national allegedly paid to receive the desired policy outcome. Given the large number of FD-1023 forms with the word "Biden" in June 2020, these terms should assist the FBI in identifying the specific FD-1023 form at issue. Despite the FBI's unreasonable delay, the Committee will allow FBI six more days to produce the FD-1023 form. To the extent there are numerous documents referencing "Biden" and "five million" dollar payments, please let us know promptly.

As explained in both previous letters, the Committee's independent and objective review of this matter will inform potential legislative solutions that the Committee is exploring. Specifically, the Committee is considering legislation aimed at deficiencies in the current legal framework regarding disclosure of financial interests related to Vice Presidents and Presidents (and the family members thereof)—deficiencies that may place American national security at risk. The Committee is seeking meaningful reforms to government ethics and disclosure laws that will provide necessary transparency into a Vice President's or a President's (and their immediate family members') income, assets, and financial relationship with foreign and domestic companies. Public corruption, influence peddling, federal ethics/financial disclosures regulations, and national security matters are directly within the purview of the Committee's oversight authorities.

⁶ The search should include any variation of these terms (e.g., "5 million," "five-million," etc.).

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Your response to the subpoena is due May 30, 2023. If the FD-1023 form is not produced by that date, the Committee will initiate contempt of Congress proceedings. To ask any follow-up or related questions, please contact Committee staff at (202) 225-5074.

The Committee on Oversight and Accountability is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. The subpoena was issued pursuant to my authority as the Chairman of the Committee pursuant to both Rule XI.2(m)(1)(B) of the Rules of the House of Representatives and Rule 12(g) of the Committee’s rules.

Thank you for your prompt attention to this important investigation.

Sincerely,

A handwritten signature in black ink that reads "James Comer". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

James Comer
Chairman
Committee on Oversight and Accountability

cc: The Honorable Jamie B. Raskin, Ranking Member
Committee on Oversight and Accountability